IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2950 OF 2006

Atul Gangadhar Puranik..... ... ... Petitioner
V/s
Himanshu Kumar Upadhya & Anr..... ... Respondents.

Office Notes, Office Memoranda of Coram, appearances Court's orders or directions and Registrar's orders.	))))	Court's or Judge's Orders

---

Mr.M.B.Kotak, Adv. For the petitioner.

None for the respondents.

CORAM: V.G. PALSHIKAR
AND
V.R.KINGAONKAR, JJ.

03.05.2006.

PC:

This petition is directed against the order passed by Motor Accident Claims Tribunal, Bombay.

2. The petitioner met with an accident on 13.4.1989 in which he sustained severe injuries. He therefore filed an application for compensation under the Motor Vehicles Act. The application was registered as MACT Application No.2113 of 1989. The total claim

made in that application is for Rs.2,00,000/-.

3. During the pendency of this application the matter was taken up by Lok Adalat constituted under the provisions of Legal Services Authority Act, 1987 and the matter was settled between the petitioner and the Insurance company on 18.8.1990. Relevant term of the compromise reads as under :

> "Settled against Insurance company only for Rs.50,000/- with liberty to the applicant to proceed against opposite party."

4. The matter therefore continued to pend before the Tribunal till 2005 when the impugned order was passed by the Chairman of the Tribunal rejecting the application with the following observations:

> "In view of compromise between the applicant and the Insurance company on 1.8.1990 the case no more survives against the Opp.Party and so it is disposed off.

Parties are liable to bear their own costs."

5. This order is impugned by this petition. This is an order passed by the Motor Accident Claims Tribunal, Bombay rejecting the claim petition of the petitioner for compensation of Rs.1.5 lacs. An appeal against such order is squarely maintainable on all grounds including the grounds that terms of compromise between the Insurance company and the petitioner have not been taken into consideration by the Tribunal. When such specific statutory remedy is available, this Court need not exercise its jurisdiction under Article 226. Hence petition dismissed.

3.5.06